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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/720,173	12/20/2000	Peter Johnstone	31707/207270	8867

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EXAMINER

AHMED, SHEEBA

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 10/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/720,173

Applicant(s)

JOHNSTONE, PETER

Examiner

Sheeba Ahmed

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2,5-9,11,12,15,16,18-24,26,27 and 29-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2,5-9,11,12,15,16,18-24,26,27 and 29-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Response to Amendment*

1. Claims 2, 9, and 11 have been amended in the above-identified application.

**Claims 2, 5-9, 11, 12, 15, 16, 18-24, 26, 27, and 29-36 are still pending.**

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2, 5-9, 11, 12, 15, 16, 18-24, 26, 27, and 29-36 rejected under 35 U.S.C. 103(a) as being unpatentable over Johnstone (WO 98/50219) in view of Murray (US 4,680,207).

Johnstone (WO 98/50219) discloses a method for producing a stretch wrap plastic film and the storage of such plastic film, which has undergone stretching prior to storage on a roll (Page 1, lines 3-6). The film is pre-stretched to give a predetermined significant amount of memory and the amount of recoverable strain retained in the films falls within the range of about 20% to a maximum of total memory in the film (*indicating that 20 to 80% of the film is relaxed and thus meeting the limitation that the plastics material is uniformly relaxed across its cross-section transverse to the stretching direction by 20%*) (Page 2, lines 9-12 and 19-21). A method of wrapping a load with the plastics film is also provided and the load may be a vegetation material

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during the production of silage (Page 3, lines 13-15). A partially stretched film may be further stretched or re-stretched to attain the original level of stretching or in some cases even beyond the original level of stretching (Page 9, lines 1-5).

Johnstone does not teach that the stretching is biaxial.

However, Murray discloses biaxial stretching of LLDPE to form thermoplastic sacks used for hay and silage wherein the biaxial stretching results in the sack having improved film stretch resistance and high tensile strength in both MD and TD directions and further having improved tear resistance comparable to a uniaxially oriented film (Column 2, lines 64-68).

According, it would have been obvious to one having ordinary skill in the art to biaxially stretch the film taught by Johnstone given that Murray specifically teaches that doing so results in the film having improved film stretch resistance and high tensile strength in both MD and TD directions and further having improved tear resistance comparable to a uniaxially oriented film. With regards to the limitations that the plastics material member achieves either or both an improved resistance to degradation from UV light and an improved resistance to gas transmissivity, the Examiner takes the position that such material properties are inherently present in the stretched film disclosed by Johnstone given that the chemical composition of the film and the process of making such a stretched film (as well as the process of relaxing it) as disclosed by Johnstone and that of the claimed invention are identical. Furthermore, the Examiner takes the position that the wrapped bale of silage is inherently in an anaerobic atmosphere given that the stretched film is not gas permeable.

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3. Claims 2, 5-9, 11, 12, 15, and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin-Cocher et al. (WO 94/04419) in view of Murray (US 4,680,207).

Martin-Cocher et al. disclose a method of wrapping loads in a stretchable film wherein the film is pre-stretched to an elongation value of about 150 to 500% so that after relaxation it presents a tension. The film may be pre-stretched in its longitudinal or transverse direction. The invention is related to wrapping palletized loads.

Martin-Cocher do not disclose that the stretched plastics film is relaxed across its cross-section transverse to the stretching direction by between 5 and 20% and that it is biaxially stretched.

However, Murray discloses biaxial stretching of LLDPE to form thermoplastic sacks used for hay and silage wherein the biaxial stretching results in the sack having improved film stretch resistance and high tensile strength in both MD and TD directions and further having improved tear resistance comparable to a uniaxially oriented film (Column 2, lines 64-68).

According, it would have been obvious to one having ordinary skill in the art to biaxially stretch the film taught by Martin-Cocher given that Murray specifically teaches that doing so results in the film having improved film stretch resistance and high tensile strength in both MD and TD directions and further having improved tear resistance comparable to a uniaxially oriented film. Furthermore, it would have been obvious to one having ordinary skill in the art to optimize the amount of relaxation of the film given that Martin-Cocher specifically teach that the amount of film relaxing stabilizes the film

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and determines the increase in tearing resistance. With regards to the limitations that the plastics material member achieves either or both an improved resistance to degradation from UV light and an improved resistance to gas transmissivity, the Examiner takes the position that such material properties are inherently present in the stretched film disclosed by Martin-Cocher et al. given that the chemical composition of the film and the process of making such a stretched film as disclosed by Martin-Cocher et al. and that of the claimed invention are identical.

### ***Response to Arguments***

4. Applicant's arguments filed on August 17, 2005 have been fully considered but they are not persuasive. Applicants traverse the rejection of claims 2, 5-9, 11, 12, 15, 16, 18-24, 26, 27, and 29-36 under 35 U.S.C. 103(a) as being unpatentable over Johnstone (WO 98/50219) in view of Murray (US 4,680,207). Applicants submit that the claimed invention entails two aspects that the cited references fail to teach: (1) biaxial cold stretching of a film web at atmospheric temperature; and (2) partial relaxing of the film web in the longitudinal stretching direction by between 5 and 20% of the total stretched length, along with partial relaxation in the transverse direction, wherein the longitudinal partial relaxation is uniform across the transverse cross- section of the web. The Examiner takes the position that aspect (1) of the Applicants argument raises ambiguity and it is not clear what is meant by the phrase "cold stretching of a film web at atmospheric temperature" – is the film stretched at atmospheric temperature (i.e., 25oC) or at a temperature lower than the atmospheric temperature?

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Applicants further state that Johnstone discloses uniaxial prestretching of a plastics material film beyond its yield point, followed by partial relaxation of the film so as to retain between 20% and 80% of the elastic deformation which is not the same as partial relaxation by between 5% and 20% of the total stretched length. The Examiner disagrees. Johnstone teaches that the "amount of recoverable strain retained in the films falls within the range of about 20% to a maximum of total memory in the film" thus indicating that 20 to 80% of the film is relaxed and thus meeting the limitation that the plastics material is uniformly relaxed across its cross-section transverse to the stretching direction by 20%).

Furthermore, with regards to the argument that Murray does not teach biaxial stretching of a film web at cold, atmospheric temperature conditions either independently or when combined with Johnstone or Martin \_Cocher, the Examiner would like to point out that the claims are not directed to stretching at "cold" temperatures.

Hence, the above rejections are maintained.

### ***Conclusion***


5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheeba Ahmed whose telephone number is (571)272-1504. The examiner can normally be reached on Mondays and Thursdays from 9:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on (571)272-1284. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

  
Sheeba Ahmed  
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October 27, 2005